specialists in my State of Rhode Island at Hasbro Children's Hospital, an extraordinary hospital in Rhode Island. I am very proud of it. While listening to those professionals, I got a sense of the real needs we have to address in this debate on the Patients' Bill of Rights.

First of all, there is tremendous frustration by these physicians and medical professionals about their ability to care for children, their ability to effectively provide the kind of care which parents assume they paid for when they enrolled in the HMO. They are frustrated by the mindless rules. For example, one physician related to me there is the standard practice of giving a child a complete examination at the age of 1. He had a situation where a child came in at 11 months 28 days. They performed the examination, and the insurance company refused to pay because, obviously, the child was not yet 1 year old. That is the type of incredible, mindless bureaucracy these physicians are facing every day.

I had another physician tell me—and this was startling to me—she was treating a child for botulism. She was told the company was refusing to pay after the second day. She called—again, here is a physician who is spending valuable time calling to find out why there is no reimbursement—and she was told simply by the reviewer—not a physician, the reviewer—that according to the guidelines of that HMO, no one can survive 2 days with a case of botulism; therefore, they were not paying for more than 2 days. Mercifully, the child survived, and eventually I hope they were paid for their efforts.

These are the kinds of frustrations they experience. This is throughout the entire system of health care. There are some very specific issues when it comes to children. One is the issue of developmental progress. An adult is generally fully developed in cognition, in mobility, in all the things that children are still evolving. Yet managed care plans seldom take into consideration the developmental consequences of a decision when it comes to children. Unless we require them to do that, they will continue to avoid that particular aspect. So a child can be denied services.

For example, special formulas for infants can be denied because the HMO will say: Well, it is not life-threatening; there is no serious, immediate health consequence. But the problem, of course, is, unless the child gets this special nutrient, that child is not going to develop in a healthy fashion. Five, six, seven, eight years from now, that child is going to have serious problems, but, in the view of an HMO, a dollar saved today is a dollar saved today. Oh, and by the way, that child probably will not even be in their health care system 5 years from now, the way parents and employers change coverage.

We have to focus on developmental issues. We also have to ensure children have access to pediatric specialists. There is the presumption that a rose is a rose is a rose, a cardiologist is a cardiologist is a cardiologist, when, in fact, a pediatric cardiologist is a very specific discipline requiring different insights and different skills.

We also have to recognize that many very talented pediatricians find themselves overwhelmed today with the young children they are seeing. I had one physician tell me he sees children who have problems with deficit disorders, problems with attention issues, and they have prescribed some very sophisticated pharmaceutical pills and prescriptions that he, frankly, has trouble managing because he is not a child psychiatrist. Yet they have difficulty getting access from the general practitioner to the specialist, the child psychologist to the child psychiatrist.

The other thing is, the system has been built upon adult standards. One of the great examples given to me is that there are new standards now to reimburse physicians when they are doing a physical, but they are based upon adult standards. The important things a physician has to do to evaluate a child are not even compensated because they are immaterial to an adult. Why would the company spend money paying a doctor to do that? This whole bias towards adults distorts the care for children in the United States.

The Democratic alternative which is being presented today recognizes these issues in a very pronounced and emphatic way. We do explicitly provide for access to pediatric specialists; we do specifically require, in making judgments about health care, the development of a child must be considered as part of the medical necessity test; and we also talk about developing standards, measurements, and evaluations of health care plans that are based on children and not just adults.

I urge all of my colleagues to endorse this concept. The best reason to pass this Democratic alternative is to help the children of America.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REED. I thank the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 5 minutes.

Ms. MIKULSKI. I thank the Chair.

ACCESS TO EMERGENCY CARE

Ms. MIKULSKI. Mr. President, I rise today to continue the discussion of the Patients' Bill of Rights and lend my voice to the Graham amendment for access to emergency care without penalty by an HMO when any prudent person presents their symptoms.

Before I do that, I congratulate the Senator from Rhode Island for his most eloquent and insightful remarks. For my colleagues, the Senator from Rhode Island has devoted his life to protecting the lives of Americans. As a West Point graduate serving in the U.S. military, he did that abroad, and now he does it in the Senate Chamber standing up for America's children. I thank him for his devotion and his gallantry. I am happy to be an able member of the Reed platoon.

I am pleased today to join with Senator BOB GRAHAM and other colleagues in speaking out about the people who go to an emergency room and want to be treated for their symptoms without fear of not having their visit covered by their HMO. When it comes to emergency care, people are afraid of both the symptoms they face as well as being denied coverage by their insurance company.

''ER'' is not just a TV show; it is a real-life situation which thousands of Americans face every day. Yet I hear countless stories from friends and neighbors and constituents, as well as from talking to ER docs in my own State, who tell me they are afraid to see their doctor or take their child or parent to the emergency room because they will not be reimbursed and will be saddled with debt.

Patients must be covered for emergency visits that any prudent person would make. That means if they have symptoms that any prudent person says could constitute a threat to their life and safety, they should be reimbursed. The prudent layperson standard is at the heart of this amendment. It is supported by the American College of Emergency Physicians which has stated that the way the Republican bill is written, it ''must be interpreted as constraints on a patient's use of the 'prudent layperson' standard.''

The Republican bill only goes part way. We need to restore common sense to our health care system.

Let me give an example, the case of Jackie, a resident of Bethesda, MD. She went hiking in the Shenandoah mountains. She lost her footing and fell off a 40-foot cliff. She had to be airlifted to a hospital. Thanks to our American medical system, she survived. After she regained consciousness and was being treated at the hospital for these severe injuries, Jackie learned that her HMO refused to pay her hospital bill because she did not get prior authorization. This is outrageous. Imagine falling off of a 40-foot cliff, waking up in a hospital and being told that your HMO will not cover your bills because you did not call while you were unconscious.

In America, we think if you need emergency care, you should be able to call 911, not your HMO's 800 number.

Incredibly, some of my colleagues in the Senate say that all these stories are anecdotes and they are horror stories. These are not anecdotes. We are talking about people's lives.

If you would come with me to the emergency rooms at Johns Hopkins Hospital, the University of Maryland, Salisbury General on a major highway on the Eastern Shore, all over the State, you would learn that many people come to the ER because of not only accidents but they are experiencing symptoms where they wonder if their life could be threatened or the life of

their child. The child is having acute breathing, and you do not know if that child is having an undetected asthma attack; or a man sitting at Oriole Park suddenly has shortness of breath, pains in his left side and leaves to go to the ER at the University of Maryland next to Camden Yards. Should they call 911 or should they call 800 HMO? I think they should call 911, and they should worry about themselves and their family and not about reimbursement.

So when we come to a vote, I really hope that we will pass the Graham amendment. The Republicans say they have an alternative. But it does not guarantee that a patient can go to the closest emergency room without financial penalty. Do not forget, it covers only 48 million Americans; it leaves out 113 million other Americans.

Let's do the right thing. Let's make sure that patients with insurance cannot be saddled with huge bills after emergency treatment.

I thank the Senate and yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PATIENTS' BILL OF RIGHTS ACT OF 1999

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1344, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1344) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

Pending:

Daschle amendment No. 1232, in the nature of a substitute.

Daschle (for Kennedy) amendment No. 1233 (to Amendment No. 1232), to ensure that the protections provided for in the Patients' Bill of Rights apply to all patients with private health insurance.

Nickles (for Santorum) amendment No. 1234 (to Amendment No. 1233), to do no harm to Americans' health care coverage, and expand health care coverage in America.

Graham amendment No. 1235 (to amendment No. 1233), to provide for coverage of emergency medical care.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 1235

Mr. FRIST. Mr. President, I understand we are currently on the Graham amendment. Could you tell us how much time remains on either side?

The PRESIDING OFFICER. There are 33 minutes 8 seconds for the majority; and 7 minutes 59 seconds for the minority.

Mr. FRIST. Thank you.

Mr. President, today we will be talking about a number of issues that have to do with the Patients' Bill of Rights. Yesterday, the discussions began on what I regard as a very significant, important piece of legislation that is called the Patients' Bill of Rights. The debates that we will be having on the floor address really two underlying bills that were introduced formally yesterday: One is the Kennedy bill from the Democratic side, and the other is the Republican leadership bill. Both bills set out to accomplish what I think we all absolutely must keep in mind as we go through this process, and that is to make sure that we are focusing on the patients in improving the quality and the access of care for those patients and at the same time help this pendulum swing back to where patients and doctors are empowered once again; not to have this be so much in favor of managed care that, when it comes down to an individual patient versus managed care on certain issues, managed care enters into this realm of practicing medicine.

Again, I think if we keep coming back to focusing on the individual patient, we are going to end up with a very good bill.

We left off last night with the discussion of the Graham amendment which focuses on emergency services. In the Republican bill, basically there are a list of patient protections which include a prohibition of gag clauses, access to medical specialists, access to an emergency room, which is the real thrust of the Graham amendment, continuity of care—a range of issues that we call patient protections.

A second very important part of our bill focuses on quality and how we can improve quality for all Americans. I am very excited about that aspect of the bill. We will be discussing that later this week. That is our responsibility as the Federal Government, to invest in figuring out what good quality of care actually is. It is similar to investing in the National Institutes of Health: The research behind determining where the quality is, and spreading that information around the country so that excellent quality can be practiced and people can have access to that.

A third component of the Republican bill which I think is, again, very important that we will keep coming back to, is the access issue, the problem of 43 million people in this country who are uninsured. Some people say: No, that is a separate issue; we can put it off for another day.

But when you look at patient protections, you look at quality and you look at access. It is almost like a triangle. If you push patient protections too far you end up hurting access. If you push issues beyond what is necessary, to get that balance between coordinated care and managed care and fee for service and individual physicians' and patients' rights, if you get too far out of kilter, all of a sudden premiums go sky-high.

When premiums go sky-high in the private sector, employers, small employers start dropping that insurance. It becomes too expensive for an individual to go out and purchase a policy, and therefore instead of having 43 million uninsured, you will have 44 million, 45 million, or 46 million, all of which is totally unacceptable. As trustees to the American people, we simply cannot let that happen. Therefore, you will hear this quality and access and patient protection discussion go on over the course of the week.

Last night and today over the next 45 minutes or so we will be focusing on this patient access to emergency medical care. Let me just say that I have had the opportunity to work in emergency rooms in Massachusetts for years, in California on and off for about a year and a half, in Tennessee for about 6 years, and almost a year in Southampton, England.

Whether it is a laceration, whether it is a sore throat, whether it is chest pain, whether it is cardiogenic shock from a heart attack, access to emergency room care is critically important to all Americans.

We have certain Federal legislation which guarantees that access, but it is clear there are certain barriers that are felt today by individuals that their managed care plan is not going to allow them to go to a certain emergency room or, once they go, those services are not covered. That is the gist of what we have in the Republican bill—a very strong provision for patient access to emergency medical care.

This Republican provision, as reported out of the Health, Education, Labor, and Pension Committee where this was debated several months ago, requires group health plans, covered by the scope of our bill, to pay, without any prior authorization, for an emergency medical screening exam and stabilization of whatever that problem is—whether it is cardiogenic shock, whether it is a laceration or a broken bone or falling down the steps or a broken hip—to pay for that screening and that stabilization process with no questions asked—no authorization, no preauthorization, whether you are in the network or outside of the network.

The prudent layperson standard is very important for people to understand. The prudent layperson standard is at the heart of the Republican bill. We use the words ''prudent layperson.'' By prudent layperson, we define it as an individual who has an average knowledge of health and medicine. The example I have used before is, if you have a feeling in your chest, and you do not know if it is a heart attack or indigestion, and you go to the emergency room, a prudent layperson, an average person, would go to the emergency room in the event that that was a heart attack, and therefore is the standard that is at the heart of the Republican bill. Now, there are two issues that need to be addressed. We talked about them a little bit yesterday. One is what happens with the